

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ROBERT G. LUSTYIK, JR.,

Defendant.

ORDER

Case No. 2:12-CR-645-TC-DBP

Defendant Robert J. Lustyik, Jr., who has already pled guilty, is currently scheduled to be sentenced, along with Co-Defendants Michael Taylor and Johannes Thaler, on Monday, January 15, 2015, at 2:00 p.m. For the reasons set forth below, the court has determined that Mr. Lustyik's sentencing must be continued to a later date.

The court recently received a motion from Mr. Lustyik's attorney requesting permission to withdraw. The court also received a *pro se* request from Mr. Lustyik to appoint a new attorney for him. During a November 7, 2014 hearing, the court found that an irreconcilable conflict existed between Mr. Lustyik and his previous attorney. Accordingly, the court appointed a new attorney to represent Mr. Lustyik in the final stages of this case.

Mr. Lustyik has also been indicted in the Southern District of New York (SDNY) on different criminal charges. (See United States v. Lustyik, Case No. 7:13-cr-616-VB (SDNY) [hereinafter "New York case"].) In the New York case, he was represented by the same attorney with whom he has a conflict here. For the same reasons, he requested a new attorney in the New York case, and that court granted Mr. Lustyik's request. As a result, given that Mr. Lustyik was

scheduled to go to trial this month in the SDNY, the SDNY court re-scheduled the trial to begin February 9, 2015, because new counsel needs time to properly prepare (trial is expected to last three weeks).

Here, Mr. Lustyik's new attorney will need time to prepare for sentencing and address the United States's recent motion for criminal forfeiture against Mr. Lustyik. That preparation will require time from Mr. Lustyik that Mr. Lustyik would otherwise spend preparing for trial with his new attorney in the New York case.

In order to allow Mr. Lustyik's new attorney in this case to adequately represent Mr. Lustyik at sentencing and in the matter of criminal forfeiture, and to give Mr. Lustyik and his New York attorney sufficient time to prepare for the February 2015 trial in the New York case, the court hereby continues Mr. Lustyik's sentencing date to March 30, 2015, at 1:00 p.m. The continuation will also allow Mr. Lustyik's attorney here to determine the effect, if any, the proceeding in the New York case will have on sentencing in this case.

The court emphasizes that the sentencing date for Co-Defendants Michael Taylor and Johannes Thaler remains the same. Absent good cause shown, the court will proceed with sentencing for Mr. Taylor and Mr. Thaler as originally scheduled – that is, Monday, January 5, 2015, at 2:00 p.m.

SO ORDERED this 10th day of November, 2014.

BY THE COURT:

A handwritten signature in black ink that reads "Tena Campbell". The signature is written in a cursive, flowing style.

TENA CAMPBELL
U.S. District Court Judge